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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,825	12/07/2001	Yasuo Shibusawa	TMI-109	7759

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

ROCHE, TRENTON J

ART UNIT	PAPER NUMBER
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2193

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/004,825

Applicant(s)

SHIBUSAWA ET AL.

Examiner

Trenton J. Roche

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to communications filed 3 November 2006.
2. Per Applicants' request, amended claims 1, 3, 4, 6-8, 11, and 16 have been entered. Claims 9, 10 and 12-15 have been canceled. Newly added claims 17-23 have been entered.
3. Claims 1-8, 11 and 16-23 are currently pending and have been examined.

Response to Arguments

4. Applicants' arguments, see pages 11-13 of the Remarks, filed 3 November 2006, with respect to the rejection of claims 1-16 under 35 USC § 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration and in light of Applicants' amendments, a new ground(s) of rejection is made in view of newly found prior art.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

~~1, 3-8, 11, 16-23~~

6. Claims ~~1-16~~ are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,023,585 to Perlman et al. ("Perlman")

Per claim 1:

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Perlman discloses:

- storing identification information for identifying a user's computer system and system configuration information, associated with the identification information, indicating hardware components of the user's computer system ("Stored in the WebTV server 5 are the device drivers for all peripheral devices that may be used in a WebTV client system and a database including the device codes of all such peripheral devices. The database is set up to allow device codes to be associated with the appropriate stored device drivers." in col. 6 lines 34-39)
- storing software components required for operation of each of the hardware components ("stored device drivers" in col. 6 line 39)
- accepting from the user's computer system the identification information of the user's computer system ("WebTV box 10 transmits al of the receives device codes to the WebTV server..." in col. 6 lines 23-24. Further, "the WebTV server 5 receives the devices codes..." in col. 6 lines 45-46)
- sending, to the user's computer system, the software components required for operation of the hardware components of the user's computer system that is determined from the stored system configuration information associated with the accepted identification information ("the WebTV server 5 automatically uses the receives codes to reference the database to determine the appropriate device drivers for the particular peripheral devices...the WebTV server 5 automatically downloads these device drivers to the WebTV client..." in col. 6 lines 48-54)

substantially as claimed.

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Per claim 3:

Note the rejection regarding claim 1. The device drivers are stored on the server and as such would constitute being in a database.

Per claim 4:

Note the rejection regarding claim 1, and additionally, Perlman discloses conducting setup processing as claimed (“automatically installs the device drivers...” in col. 6 lines 55-56)

Per claims 5 and 6:

Perlman further discloses executing a specified installation software and storing software received from the second computer system as claimed (Note col. 6 lines 45-56)

Per claim 7:

Note the rejection regarding claim 4.

Per claim 8:

Note the rejection regarding claims 1 and 3.

Per claim 11:

Note the rejection regarding claim 3.

Per claim 16:

Note the rejection regarding claims 1 and 3.

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Per claims 17-23:

Note the rejection regarding claim 1.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman.

Per claim 2:

The rejection of claim 1 is incorporated, and further, Perlman does not explicitly disclose charging a fee for the updated device driver, and collecting a fee from the user. Official Notice is taken that in the art of software or driver downloading, it was well known in the art at the time the invention was made to enforce a fee requirement for downloading software or drivers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to charge and collect a fee from a user for downloading of software or drivers, as this would provide a profitable incentive to the person offering the software or updated driver and assist in covering the bandwidth expenses incurred by the person offering the download.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

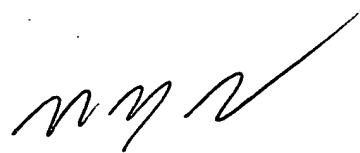
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Trenton J Roche
Examiner
Art Unit 2193

TJR



WEI ZHEN
SUPERVISORY PATENT EXAMINER